

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Communications Assistance for)
Law Enforcement Act;)
CALEA Revenue Estimates of)
Five Manufacturers)

CC Docket No. 97-213

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REPLY COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

The Cellular Telecommunications Industry Association ("CTIA")¹ submits these reply comments in response to the Commission's *Public Notice* regarding the above referenced proceeding.²

The statutory directive of Section 103 requires the Commission to determine that CALEA capabilities are cost-effective. CTIA strongly supports the Commission's efforts to fulfill its responsibilities in this regard, and believes that the Commission must estimate the total cost for carriers to meet the requirements of the J-STD-025 and any of the nine "punchlist" items.

Unfortunately, the DOJ and the FBI ("the government") continue to assert that the costs associated with the core J-STD-025 are "entirely irrelevant"³ even though the

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service (CMRS) providers and manufacturers, including 48 of the 50 largest cellular and broadband personal communications service ("PCS") providers. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

² *Public Notice*, DA 99-863, CC Docket No. 97-213, released May 7, 1999, *Comment Sought on CALEA Revenue Estimates of Five Manufacturers*.

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FCC's own estimates show that upgrading to the J-STD-025 will cost almost a billion dollars.⁴ Other commenters have underscored that the costs of deploying the J-STD-025 are so significant that these capabilities alone will affect subscriber rates, competition, and the introduction of new services.

Moreover, the government cannot fairly argue that the CALEA compliance costs placed into the record are not reasonable estimates, since the FBI and DOJ have declined to provide the Commission and the other parties to this proceeding with any of the cost data they have obtained. The DOJ and FBI also argue that they require additional access to the raw information and assumptions which underlie the aggregated figures in order to comment upon these estimates.⁵ This request serves only as an invitation to delay the Commission's action in this proceeding. Not only has the government had access to the cost information included in the *Public Notice*, the DOJ and FBI collected CALEA compliance cost data last Spring, and are involved in on-going discussions and negotiations with the industry regarding these costs. Attorney General Reno felt comfortable enough with the results of the government's own cost data to present them to Congress, but has thus far refused to release this information to the FCC, the industry, or the public. Despite its rhetoric, the government has had ample opportunity to compare the FCC's aggregate cost data to its own, and comment accordingly. Indeed, given the ability of the DOJ and FBI to frame comments based on their own information, it would

³ DOJ/FBI Comments at 10.

⁴ *Public Notice* at 4 (with only partial information, the FCC cost estimate is \$916 million).

⁵ DOJ/FBI Comments at 4-5.

be appropriate to construe the government's silence as consent to the magnitude of the estimates placed into the record by the Commission and the other commenters.

The overwhelming majority of commenters agree that the FCC's data shows the appropriate order of magnitude for estimating the *minimum* costs associated with the J-STD-025 and punchlist items. While the incomplete nature of the data allows only a rough estimate of the floor for the punchlist,⁶ even so, the costs are staggering. It is clear that the J-STD-025 and punchlist capabilities can only be had at costs that are so significant that they are not "cost effective."

A. Dialed Digit Extraction Should Not Be Required

Of all the punchlist capabilities under consideration, dialed digit extraction stands out as the most expensive, costing twice as much or more than the other punchlist items, according to the FCC's own estimates.⁷ With respect to wireless networks, dialed digit extraction requires redesign of the network and will require a major investment in new hardware dedicated solely to providing this single capability.

To effect post-cut-through dialed digit extraction, carriers generally would have to purchase special Dual Tone Multi-Frequency ("DTMF") decoders. One decoder would be required for each channel under surveillance. The decoders could not be shared between lines because a carrier would never know when a subject might engage in post-cut-through dialing. Thus, this requirement is not only a capability issue, it is a capacity

⁶ PrimeCo Comments at 4; SBC Comments at 1; US West Comments at 2; Sprint Comments at 1; Bell Atlantic Comments at 1; AirTouch Comments at 2; USTA Comments at 2.

⁷ *Public Notice* at 4.

issue as well. The FBI has stated unequivocally, but without explanation, that DTMF decoders are not reimbursable as a capacity expense.

The extremely high cost of dialed digit extraction refutes the government's claim that this feature is more economical than the obvious alternative: use of content channels by convincing a court of the need to obtain post cut-through dialed digits. It is entirely appropriate to require law enforcement officials to serve the originating carrier with a Title III call content warrant since carriers cannot distinguish between post-cut-through dialing that initiates a call through an interexchange carrier, and call content information associated with other signaling such as bank account numbers or credit card transactions that are not included in a pen register order.⁸ Carriers do not enjoy statutory immunity and should not be put in the position of inadvertently providing call content information contrary to CALEA in response to a pen register order.

⁸ CTIA Comments at 37-38 (filed December 14, 1998).

CONCLUSION

For the foregoing reasons, the FCC should deny the requested punchlist capabilities.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Jill K. Brunt, do hereby certify that copies of the foregoing **REPLY
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